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DEC 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Keith H.S. Campbell	:	
Application No. 09/600,130	:	DECISION ON PETITION
Filed: 05/14/2001	:	
Attorney Docket No. 105434.105001	:	

This is decision on the renewed petition under 37 CFR 1.181, filed November, 2006, to withdraw the holding of abandonment in the above-identified application.

On April 13, 2005, the Office mailed a nonfinal Office action, which set a three month shortened statutory period for reply. In the apparent absence of a timely filed response, the Office mailed a Notice of Abandonment on March 23, 2006. On July 28, 2006, petitioner filed the original petition under 37 CFR 1.181, in which petitioner asserted that the Office issued the Notice of Abandonment in error because petitioner submitted a timely response, a request for an extension of time for response within the second month, and a certificate of mailing dated September 13, 2005. Copies of these documents accompanied the petition. Nevertheless, the petition was dismissed by the decision of November 15, 2006, for failure to submit a statement under 37 CFR 1.8(b)(3).

On November 28, 2006, petitioner filed the present renewed petition. In addition, petitioner submitted the Statement of Stephanie Adams, the person who signed the certificate of mailing under 37 CFR 1.8(b), attesting to her personal knowledge of the mailing of the original response on September 13, 2005, in response to the Office action of April 13, 2005. The Office notes that the certificate of mailing of September 13, 2005, would have rendered the reply and the request for an extension of time for response in the second month as timely filed if received in the USPTO; however, the application file does not include the original reply, the request of an extension of time, or the certificate of mailing.

Pursuant to 37 CFR 1.8(b):

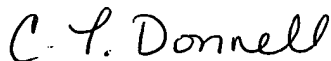
In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The present petition satisfies the requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to file a timely reply to the nonfinal Office action of April 13, 2005, is withdrawn and the application is restored to pending status. The Office will accept the copy of the reply and the request for an extension of time submitted on July 28, 2006, in place of the reply mailed on September 13, 2005.

This application is being referred to Technology Center AU 1632 for appropriate action on the amendment submitted on July 28, 2006 (certificate of mailing dated September 13, 2005).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination process should be directed to the Technology Center.



Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions